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Report Series 1992

92-14 AMO's Response to *An Agricultural Land Protection Program for Ontario*

Association of Municipalities of Ontario

August 1992

MISSION STATEMENT

AMO unites Ontario's municipalities.

We take pride in promoting, supporting and enhancing strong and effective municipal government.

We provide strategic leadership by:

- developing and effectively promoting responsive quality policy;
- informing and educating governments, the media and the public;
- marketing innovative and beneficial services.

Our elected representatives, municipal officials and association staff form a team which values and respects:

- diversity and local autonomy;
- fairness and equity;
- consultation;
- consensus;
- co-operation.

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EXECUTIVE SUMMARY

Background

In February 1992, the Minister of Agriculture and Food, Elmer Buchanan, announced a major consultation on agricultural land use in Ontario. The Minister formed a working group of representatives from agriculture, environmental groups, the development industry, municipalities and the public to lead the consultation. In April 1992, the Ministry of Agriculture and Food released the working group's discussion paper, *An Agricultural Land Protection Program for Ontario*. Consultation meetings on the discussion paper were held across the province while the working group continues to examine the options for protecting Ontario's agriculture resource in detail.

AMO's Key Recommendations

The Association continues to support, in principle, the preservation of Ontario's prime agricultural lands (as stated in its response to the Foodland Preservation Policy Statement). In its response, AMO makes the following four key recommendations:

Relationship to the Sewell Commission

AMO agrees that the development of a policy for agricultural lands must not occur independent of the overall review and reform of the planning system. Recommendations on how the Province should express its interests in the protection of agricultural land should be consistent with those for other planning and development issues. Therefore, AMO recommends that the agricultural land protection program should not be finalized until the recommendations from the Sewell Commission are known and the Government has announced how it proposes to respond to those recommendations.

Goals

AMO recommends that the statement and legal expression of goals for agricultural land should be consistent with that for other planning and development goals. In order to ensure this, the goals should be debated and agreed upon within the context of the Sewell Commission.

Provincial-Municipal Responsibilities for Agricultural Land Policies

AMO agrees with establishing provincial/shared goals for agricultural land protection but only if done within a broader context of overall planning goals for Ontario and if structured in a way which results in a hierarchy or nesting of responsibility for planning policy. That is, a means of progressing from the broad and general to more specific implementation policies. AMO reiterates

its recommendation made to the Sewell Commission: the Province should set goals/objectives for the land use planning system (e.g. goals and objectives statements), and municipalities should establish policies to implement these goals and objectives statements. The Province should proclaim its provincial goals and objectives statements in an "umbrella" policy statement and municipalities should establish the policies for achieving these within their policy plans. The establishment of goals, objectives and policies for agricultural land should follow this hierarchy of responsibility for planning. Examples of policies for achieving provincial goals and objectives could be included in guidelines accompanying the goals and objectives statements. Therefore, under this approach, the policies being developed in this review could be issued as guidelines.

Goal on Economic Viability

The discussion paper fails to ask the fundamental question: why protect agricultural lands? for what purpose? The discussion paper identifies "concerns" which need to be taken into account when making decisions about agricultural land protection. However, this fundamental question is never directly addressed.

AMO believes that any agricultural land protection program should flow from goals which are firmly grounded in the economic reality of farming in Ontario both now and in the foreseeable future. This calls for recognition in the goals that the economic viability of agriculture must be a consideration and that if the industry is healthy, land preservation will occur more easily; if it is not healthy, development pressures will continue.

AMO therefore recommends the addition of the following goal: to ensure that agriculture is an economically viable industry.

Basic Components of Provincial Interest in Agricultural Land Protection

The paper proposes four components of a provincial interest in agricultural land protection:

- AMO supports that the definition of prime agricultural land should be based on a modified land evaluation approach which includes the following factors: soil capability based on revised CLI including provisions for poor pocket soils; climate (including heat units); location and site characteristics; land tenure patterns; existing development controls; and recognition of specialty crops and specialty areas.

- AMO supports the statement of goals for specifying permitted land uses and recommends that the definition of prime agricultural land not preclude looking at protection measures for individual classes of prime agricultural land.

- AMO recommends the following severance policies: on prime agricultural land, agriculturally related severances should be permitted and non-agriculturally related severances should be prohibited. Non-agriculturally related infilling and poor pocket residential severances should be permitted. Municipalities should be responsible for incorporating severance policies and criteria for approving these severances within their policy plans (including factors or planning criteria such as locating severances away from major farm activities, arterial roads, or highways, next to a woodlot, on property borders, or on a poor pocket).

- AMO recommends that policies for the protection of agricultural land should be looked at in the context of the overall growth and development strategy for a municipality. Therefore, policies on the conversion of agricultural land need to be addressed within the overall municipal official plan and all of the planning and development considerations it must address.

Supportive Measures for Agricultural Land Protection

Several options of supportive measures that could be used to protect agricultural land are provided. AMO notes that there are major cost implications associated with most of the proposed supportive measures. In addition, further study of some of them is necessary (e.g. conservation easements). AMO supports in principle a number of programs which could be available to select from for protecting agricultural lands. An agricultural land protection program should look at providing enabling legislation to pursue alternatives such as land trusts, conservation easements, etc. On taxation measures, AMO recommends that these be addressed by the Fair Tax Commission.

1 INTRODUCTION

1.1 Discussion Paper

Background

In February 1992, the Minister of Agriculture and Food, Elmer Buchanan, announced a major consultation on agricultural land use in Ontario. The Minister formed a working group of representatives from agriculture, environmental groups, the development industry, municipalities and the public to lead the consultation. The focus of the working group was to produce a discussion paper that would contain options on agricultural land use in the province.

In April 1992, the Ministry of Agriculture and Food released the working group's discussion paper, *An Agricultural Land Protection Program for Ontario*. Consultation meetings on the discussion paper were held across the province; the working group continues to examine the options for protecting Ontario's agriculture resource in detail.

Consultation on these options is to be used to develop a provincial program for agricultural land protection. The new program is expected to replace the existing *Foodland Guidelines* (1978) and replace the proposed policy statement on Foodland Preservation which was never enacted.

The focus of the discussion paper and consultation process is on the single aspect of agricultural land use. Matters related to the economics of agriculture are to continue being dealt with through other measures.

Related Concerns

The discussion paper begins by noting that agricultural land protection focuses on the protection of the physical resource -- provincially significant agricultural land -- and on avoiding conflict between agriculture and other land uses. Agricultural land protection, however, is only one facet of a complex of relationships related to land use planning, environmental and resource protection, and community development. Decisions made on any one of these issues will have an impact on the other two. This interdependence must be recognized if development is to be sustained and beneficial overall.

For this reason, the discussion paper argues that several issues need to be considered when making decisions about agricultural land protection:

- Concerns related to the land base, such as fragmentation, cost of land, and soil quality;
- Concerns for the future security of our food supplies, including the price and availability of food;
- Concerns about the present and future vitality of the various sectors of Ontario's agriculture and food industry;
- Concerns about the implication of continuing development of our rural lands: growth management, demands for future municipal services, and cumulative impacts on the environment;
- Concerns about the future vitality of Ontario's farm community, rural municipalities and other rural areas; and
- Concerns about the fiscal outlooks for individual municipalities.

Goals for an Agricultural Land Protection Program

The paper states that there is a need to detail goals for agricultural land protection so that specific options can be identified and assessed. The following proposed goals for agricultural land protection are presented for feedback and comment:

- to protect provincially significant agricultural lands in a long term stewardship perspective;

- to allow for integrated resource and growth management, whereby consideration of rural, settlement and environmental planning issues can deal with land use competition and compatibility; and

- to support partnership arrangements for rural community development.

The future provincial agricultural land protection program will be developed in response to these goals, as modified through the consultation process, and in response to given resources and abilities.

Evaluation Criteria

To help assess options for a provincial agricultural land protection program, the following nine evaluation criteria are proposed:

Protection of prime agricultural areas	Does the option identify specialty crop areas and other prime agricultural areas to be protected?
Prevention of Land use Conflicts	Does the option limit or control the range of uses permitted in prime agricultural areas and the ability to change land uses to incompatible land uses?
Degree of Permanence	Is there certainty that provincially significant agricultural land will remain available for agricultural use?
Comprehensiveness	Is the option an integrated approach to agricultural land use planning; does the option acknowledge other resource and planning interests; does the option meet the objectives of economic renewal and environmental sustainability?
Ease of Implementation	Can the option be implemented by using existing resources and expertise; does it entail a low degree of complexity?
Timing	Can the option be readily implemented; does it achieve quick results and visibility?
Acceptability	Is the option acceptable to farmers, municipalities and others; does it address concerns expressed by these groups?
Costs	Will the option incur low implementation and other administrative costs; does it have little negative long-term effect on the agriculture and food industry?
Compatibility	Can the option operate effectively alongside other land use planning and financial programs?

1.2 AMO's Response to the Objectives, Goals and Evaluation Criteria for Agricultural Land Protection

Relationship to the Sewell Commission	The discussion paper notes that "final recommendations from this consultation are to be complementary and consistent with the directions coming out of the work of the Sewell Commission." The directions of the Sewell Commission on matters of the expression of provincial interest, provincial-municipal roles in planning policy and the protection of the environment and resources, etc. are still subject to debate and discussion. As well, AMO is still in the midst of developing its comprehensive position on a reformed land use planning system for Ontario.

AMO agrees that the development of a policy for agricultural lands must not occur independent of the overall review and reform of the planning system. Recommendations on how the Province should express its interests in the protection of agricultural land should be consistent with those for other planning and development issues. Therefore, AMO believes that the Ministry of Agriculture and Food should not finalize its proposed agricultural protection program prior to the completion of the Sewell Commission.

Recommendation 1

The agricultural land protection program should not be finalized until the recommendations from the Sewell Commission are known and the Government has announced how it proposes to respond to those recommendations.

In line with this recommendation AMO has developed this response so that it is consistent with the Association's current position on the reform of the planning system as recommended in its submissions to the Sewell Commission.

Goals

In order to ensure that there is consistency with the directions of the Sewell Commission, the statement of goals should be compared to that proposed by the Commission. The Commission's goals currently include a goal for "the protection of quality agricultural areas for long-term agricultural use." The policies recommended to implement this goal include the protection of quality agricultural land beyond the urban area (class 1, 2 and 3 lands), specialty crop land and "other areas of agricultural significance"; a prohibition on the development of quality agricultural land with development directed to "existing settlements and other rural areas", except for development that needs to be in close proximity to agricultural uses; and that if quality agricultural land is to be used for urban expansion then there must be no practical alternative to accommodate urban growth.

The Commission's goals are still under review and debate but generally look to establish broad goals on all issues (agricultural land protection, wetlands, settlement/growth management policies, housing, etc.). It is necessary to develop a comprehensive set of goals

if it is agreed that an integrated approach to agricultural land protection is required (e.g. a broader focus encompassing an integrated vision for planning which includes economic, environmental and social considerations in planning and development decisions). The discussion paper appears to anticipate this approach; the second goal is "to allow for integrated resource and growth management, whereby consideration of rural, settlement and environmental planning issues can deal with land use competition and compatibility." This recognizes that goals should also reflect the objective of avoiding conflict between agriculture and other land uses.

In line with AMO's first recommendation, the statement and legal expression of provincial goals for agricultural land should be consistent with those for other planning and development issues. In order to ensure this, the goals should be debated and agreed upon within the context of the Sewell Commission.

Recommendation 2

The statement and legal expression of provincial goals for agricultural land should be consistent with those for other planning and development issues. In order to ensure this, the goals should be debated and agreed upon within the context of the Sewell Commission.

As stated, the Commission is proposing a set of overall planning goals which will encompass provincial interests in land use planning. In response to this and the Commission's proposals for provincial and municipal planning policy responsibilities, AMO has recommended that provincial and municipal roles in planning policy be defined as follows: the Province sets goals/objectives for the land use planning system (e.g. **goals and objectives statements**); and municipalities establish **policies** to implement these goals and objectives statements. That is, the Province should establish provincial goals and objectives statements (or as recommended by AMO, in an "umbrella" policy statement) and municipalities should establish the policies for achieving these within their policy plans.

Goals would be broadly stated results or achievements towards which effort is directed (e.g. Protect and enhance the quality and integrity of air,

water, land resources and ecosystems). **Objectives** would be statements of what efforts and actions are intended to attain or accomplish (e.g. To ensure ground water quality does not deteriorate below a specified standard). "Intermunicipal" planning structures (as defined by AMO in Appendix 'A') would be responsible for defining within the municipalities' policy plan how provincial goals and objectives would be implemented locally. Examples of policies for achieving provincial goals and objectives could be included in guidelines accompanying the goals and objectives statements. Therefore, under this approach, the policies being developed in this review could be issued as guidelines. AMO comments further on this later in this response in the section on implementation (policy statements vs legislation for the expression of provincial goals and policies).

Therefore, AMO agrees with establishing provincial/shared goals for agricultural land protection but only if done within a broader context of overall planning goals for Ontario and if structured in a way which results in a hierarchy or nesting of responsibility for planning policy. That is, a means of progressing from the broad and general to the more specific implementation policies as recommended by AMO in its submissions to the Sewell Commission.

Recommendation 3

Provincial and municipal roles in planning policy should be defined as follows: the Province should set goals/objectives for the land use planning system (e.g. goals and objectives statements); and municipalities should establish policies to implement these goals and objectives statements. The Province should proclaim its provincial goals and objectives statements in an "umbrella" policy statement and municipalities should establish the policies for achieving these within their policy plans. The establishment of goals, objectives and policies for agricultural land should follow this hierarchy of responsibility for planning policy.

Objectives of An Agricultural Land Protection Program

The Association continues to support, in principle, the preservation of Ontario's prime agricultural lands (as stated in its response to the Foodland Preservation Policy Statement). However, the discussion paper fails to ask the fundamental question: why protect agricultural

lands? for what purpose? The discussion paper identifies "concerns" which need to be taken into account when making decisions about agricultural land protection. However, this fundamental question is never directly addressed.

For example, in AMO's response to the Foodland Preservation Policy Statement, the Association recommended that the discussion of the policy statement should not be strictly related to the question of land-use planning, but that it should take into account the broader economic picture and the position of the individual farmer within that framework. This recognized that the economics of farming must be addressed in order to "preserve" agricultural land.

AMO believes that any agricultural land protection program should flow from goals which are firmly grounded in the economic reality of farming in Ontario both now and in the foreseeable future. This calls for recognition in the goals that the economic viability of agriculture must be a consideration and that if the industry is healthy, land preservation will occur more easily; if it is not healthy, development pressures will continue.

Recommendation 4

In support of AMO's position that the development of an agricultural land protection program should be placed in the context of the economics of farming in Ontario, AMO proposes the addition of the following goal: to ensure that agriculture is an economically viable industry.

Evaluation Criteria

AMO generally supports the criteria. However a criterion should be added which takes into account local circumstances. AMO recommends the addition of the following criterion:

Local Circumstances
Does the option incorporate a mechanism for taking into account local circumstances?

The Association also recommends that the criterion of "acceptability" should be ranked highest and that it should be stated that acceptability includes

"political acceptability" at both provincial and municipal levels of government.

While the development of criteria is beneficial, the discussion paper does not refer to these or apply them later in the review of options. Such an application would have been useful in the presentation of the individual options.

2 COMPONENTS OF PROVINCIAL INTEREST IN AGRICULTURAL LAND

Introduction

The basic components of provincial interest in agricultural land protection are proposed to include:

- a definition of provincially significant agricultural land;
- a definition of what land uses may be permitted on provincially significant agricultural land;
- a policy on severance on provincially significant agricultural land; and
- a policy on land conversion to other uses in a context of growth management.

The following sections provide a discussion on these topics, and in several cases, identify options.

2.1 Definition of Provincially Significant Agricultural Land

One of the initial issues to be determined for any policy is the extent of its application -- be it in terms of eligibility, coverage, or other criteria. In this regard, any provincial declaration on agricultural land protection will need to state which rural lands are provincially significant for agriculture. Lands identified as provincially significant for agriculture will be subject to the policies developed for the agricultural land protection program. It is noted that a provincial statement on agricultural significance may not account for local perceptions (e.g. additional lands may be viewed as locally or regionally significant but may not meet the provincial definition).

Any number of factors can be used to identify provincially significant agricultural lands, for example:

- soil capability for agriculture which considers the type of soil limitation for agriculture and the degree of limitation,
- climate,
- site characteristics (eg. current land use, vegetation, other natural resources),
- location characteristics (eg. surrounding land uses, accessibility),
- land tenure patterns (eg. fragmentation), and
- existing development controls (eg. zoning bylaws).

2.1.1 Soil Capability Approach

The soil capability approach to defining and identifying which lands are to be subject to agricultural protection is based on soil mapping. Each soil type can be rated for its capability for agriculture. In Canada, the most widely accepted rating system is the Canada Land Inventory (CLI), which assigns one of seven capability classes to each soil type[1]. Separate information is provided on the suitability of the soils for specialty crops as well. The actual lands to be protected for agriculture are determined by their soil class.

An alternative to the area approach of the Food Land Guidelines is to exclude pockets of poor soils within areas of high capability soils as lands of no provincial significance. Under this approach, poor quality soils are defined. Wherever such poor pockets are identified, those lands are not be part of the area protected for agriculture and the lands are not be subject to the provincial agricultural protection program.

The principal difference between the Food Land Guidelines area approach and the poor pocket approach is that under the poor pocket approach there is more emphasis on site planning, rather than area planning, and there is no regard to farming systems.

2.1.2 Current Use Approach

Another approach to identifying provincially significant agricultural lands is the current use approach. Under this

approach, provincial agricultural significance is determined solely by the current use of the land. That is to say, only those lands currently in active agricultural use are provincially significant agricultural lands. Implementation of this approach occurs through site-by-site inspection.

Criteria would be established for identifying agricultural lands, including recognizing land that is intentionally left as fallow (eg. in a crop rotation system) or as pasture. Woodlands as part of a farm operation, for such purposes as maple syrup production, nut harvest, firewood production, and soil and water conservation, would also be assessed.

2.1.3 Land evaluation approach

Various jurisdictions in North America have adopted systems which assess several criteria together in order to identify lands to be protected as agricultural. Such a land evaluation approach may include the following criteria:

- soil capability,
- site characteristics (eg. vegetation, other natural resources),
- location characteristics (eg. surrounding land uses, land fragmentation, road access), and
- existing development controls (eg. bylaws).

This approach recognizes that physical capabilities of a site are only one consideration in establishing agricultural areas and that other criteria must be considered. When more criteria are included in the assessment, the land evaluation system becomes more complex. As the complexity of the system increases, the resources needed to identify and evaluate each of the factors and to map agricultural areas becomes more difficult; smaller and smaller site-specific evaluations also need to be done.

2.2 AMO's Response to Factors for Identifying Significant Agricultural Lands

AMO supports that the six factors identified in the discussion paper - soil capability, climate, site characteristics, location characteristics, land tenure patterns, and existing development controls -- should be used to identify provincially significant agricultural land.

The last four factors are local identification criteria. AMO therefore questions the terminology of "provincially" significant agricultural lands used in the discussion paper. Given the importance of local criteria AMO proposes that the terminology be "prime agricultural land" as used in the draft Foodland Preservation Policy Statement.

One of AMO's criticisms of the draft Foodland Preservation Policy Statement was that it relied exclusively on the CLI of soil capability for agriculture as the means of identifying significant agricultural lands. Of the three options suggested in the discussion paper (soil capability, current use and land evaluation), the land evaluation approach comes closest to including all of the factors AMO supports as being necessary for identifying "prime" agricultural lands. However, there are some additional factors the Association believes should be included. AMO therefore supports a "modified" land evaluation approach based on the following factors.

Soil Capability

AMO agrees in principle with the need for a land/soil capability approach (land inventory) to be applied across the province. This could be an up-dated Canada Land Inventory. AMO emphasizes that revisions to the CLI should include local input.

As part of this classification AMO supports that poor pockets of soil should not be designated as prime agricultural land and should therefore not be subject to the provisions of an agricultural land protection program.

While AMO supports that poor pockets should not be designated as prime agricultural lands, the Association believes they should be subject to special considerations and development controls. For example, the inclusion of poor pockets as part of prime agricultural lands is done to establish a large area in which agriculture can occur without conflict and to prevent non-farm uses from locating near farm operations or related farm practices. Alternatively, policies could be included in municipal official plans to ensure that the uses permitted on poor pockets do not conflict with agricultural use. AMO further addresses this in the section on severance policies.

Climate

The climate factor should include reference to heat units.

Location and Site Characteristics

These factors include consideration of current land use, vegetation, other natural resources; and surrounding land uses and accessibility.

AMO supports that location or site characteristics should include the level of investment (e.g. tile drainage, buildings, equipment etc) which has been made towards improving the production capabilities of the land.

Land Tenure Patterns

This factor includes considerations such as current fragmentation of ownership patterns.

Existing Development Controls

This factor includes consideration of existing zoning bylaws.

Specialty Crops and Specialty Areas

A factor is required which recognizes specialty crops (market gardening and tender fruit); and specialty areas (e.g. northern clay belt).

2.3 Land Uses in Agricultural Areas

Once an agricultural area has been identified for protection, basic protection of the land and operations in the area is achieved by specifying which land uses may be permitted in the area. The specific range of land uses permitted in agricultural areas is determined on the basis of various goals:

- to limit the conversion of agricultural lands for non-agricultural uses,
- to avoid land uses incompatible with agricultural operations and farm practices,
- to provide stability in the area for long-term investment in agriculture,
- to ensure the continued vitality of the agricultural community, etc.

The discussion paper asks what factors should be considered in determining which land uses to permit on provincially significant agricultural land? what land uses should and should not be permitted?

AMO's Response

In general, the approach suggested in the discussion paper is essentially that which is contained in the current

policies of the Foodland Guidelines (re: compatible and incompatible land uses). AMO supports the goals for determining the range of land uses permitted in agricultural areas. The goal "to ensure the continued vitality of the agricultural community" acknowledges that policies on land uses permitted in agricultural areas must be established in the context of overall local policies on community growth and development. This again points to the requirement that these goals be subject to review and revision based on the outcomes of the Sewell Commission. AMO also suggests changes to the first two goals as follows:

- the first goal should specify that this applies to "prime" agricultural lands and that poor pocket development should be permitted; and

- the second goal should read "to limit" or "to minimize" rather than "to avoid".

AMO supports that compatibility with agricultural activities should be the guiding principle in determining appropriate land uses. The definition of compatibility should incorporate the concept that development should not have an adverse impact on the conduct of farming practices.

The current approach of the CLI is to aggregate class 1, 2, 3, and 4 lands into one category of "prime agricultural lands." However, with regards to establishing "the degree of limitation" on these lands, or the land uses permitted on prime agricultural lands, AMO suggests that it may be appropriate that each class of "prime" agricultural land be looked at individually. For example, more strict protection could be provided for class 1 and 2 lands, with less strict provisions on class 3 and 4 lands (e.g. permitting more local discretion and criteria). This approach would respond to situations where the majority of lands within a municipality are deemed to be class 1, 2 and 3, requiring some development on class 2 and 3 lands. In any case, AMO believes that the Province's definition of prime agricultural land should not preclude this type of separation which could be done at the local level.

2.4 Severance Policies[2]

There are five approaches for severances in agricultural areas: agriculturally-related severance, severance quotas,

severance in infilling situations, severance on poor pockets and no severance. The first four are discussed below.

Severances have implications for municipal services and finances and must be considered in terms of any growth management strategies or policies. The different approaches outlined below will have different implications not only because of the numbers that may be granted under any one approach, but also because of their location. Scattered residential development has the potential for increased instances of conflict with adjacent uses and natural resources. It is generally more costly to provide services. There is also the issue of cumulative impact on natural resources and the environment.

Agriculturally-related Severance

Agriculturally-related severances include those that are related to and supportive of agricultural operations. The Food Land Guidelines currently allow for the following farm-related severance: residential lot for full-time farm help, residential lot for a retiring farmer, splits of existing farm properties into smaller viable and flexible units, and severing a farm residence that has become surplus as a result of farm consolidation. Other types of farm-related severance may include creation of lots for farm-related industrial and commercial uses.

Most municipalities have adopted policies for these severances into their official plans. Local official plans often provide additional criteria for assessing eligibility for a proposed agriculturally-related severance.

Surveys have indicated that agriculturally-related residential severances in most cases become non-farm residential properties relatively soon after creation.

AMO's Response

AMO's comments on severance policies apply to "prime agricultural lands."

The Association continues to support agriculturally-related severances on prime agricultural lands and prohibiting non-agriculturally related severances. As stated in AMO's response *to the Foodland Preservation Policy Statement*, "where an official plan exists with approved severance policies, farm-related severances should continue to be permitted on prime agricultural land at the discretion of the municipality." AMO therefore recognized that municipalities should be responsible for incorporating

severance policies and criteria for approving agriculturally-related severances. This would include factors or planning criteria for establishing each type of agriculturally-related severance such as locating them away from major farm activities, arterial roads, or highways, next to a woodlot, on property borders, or on a poor pocket.

In sum, AMO supports that policies and criteria for this form of severance should be locally established and set out in municipal policy plans.

Severance Quotas

Another approach to severance in rural areas is to limit them according to a quota. Quotas could be established for the municipality as a whole (eg. annual quotas) or a quota could be assigned to each property. A property quota approach may set density limits according to size of property (e.g. one severance every 10 years; usually quota approaches are for residential severances only).

Only a few jurisdictions have a quota approach to severance. But even for some of these, any permitted severance must also be farm-related.

AMO's Response

AMO believes that rural severances on prime agricultural land should be based on good planning criteria and principles. AMO therefore does not support this option.

Infilling and Poor Pocket Severance

Some official plans recognize the impact of non-agricultural severance on existing farm operations and practices. In some situations, however, a municipality may permit limited non-agricultural severance. Criteria are frequently established to determine eligibility for an infilling severance. A maximum distance between existing buildings is the criterion most often used.

Regardless of the approach used to define provincially significant agricultural areas, there will be pockets of land within most larger properties that will be seen as having a lower value for agriculture than the other land. The lower value may be due to the pocket's agricultural capability (ie. class of soil) or its location and accessibility to the rest of the property.

These pockets of lower value are sometimes discounted to such a degree by their owners that they

are seen to be natural candidates for severance from the remainder of the property.

AMO's Response

In response to the draft Foodland Preservation Policy Statement, AMO recommended that non-agriculturally related residential severances should continue to be permitted on poor pockets, in infilling circumstances and on lots of record (existing parcels which are large enough to support a dwelling but too small for practical farming) providing they are not impacting major arterials or highways and are in accordance with local official plans. Therefore, provided local policies are in place, these severances should be permitted.

General AMO Comments on Severances

AMO supports that on prime agricultural land, agriculturally related severances should be permitted and non-agriculturally related severances should be prohibited. Non-agriculturally related infilling and poor pocket residential severances should be permitted provided they are not impacting major arterials or highways. Municipalities should be responsible for incorporating severance policies and criteria for approving these severances within their policy plans.

2.5 Conversion of Agricultural Land to Other Uses

Major public concern has frequently been expressed about urban expansions on prime agricultural lands. The urban sprawl of the Greater Toronto Area is but one example where this concern has been noted.

In addition to the expansion of major urban centres, there is also the growth of smaller communities and the establishment of non-agricultural uses on agricultural lands. These non-agricultural uses include scattered residential, commercial, and industrial development, aggregate extraction, recreational uses, and various public uses (including transportation and waste management).

Such growth and development is considered by municipalities during official plan reviews and through amendments to existing official plans. In doing so, municipalities give consideration to the needs of their communities for the future (eg. residential, industrial and commercial requirements) and respond to

development proposals from individuals. Concerns about conversion of rural land is also raised during municipal boundary adjustments (ie. annexations), which precede land use planning decisions.

Conversion of prime agricultural land has impacts on:

- the amount and productivity of agricultural land in the province;
- the ability of farmers to carry out their normal farm practices adjacent to other uses; and
- the price of land for agricultural purposes.

Any redesignation of agricultural lands for other uses is made in the context of growth management. Strategies and policies for managing growth address such issues as the form and direction of non-agricultural development. Consideration of these issues has direct effect on the rate and location of agricultural land conversion. Similarly, an agricultural land protection program may have implications for non-agricultural development in terms of restricting it in some locations and directing to other areas.

AMO's Response

As stated at the beginning of this response, AMO agrees that the question of the protection of agricultural land needs to be looked at in the context of the overall growth and development strategy for a municipality. Therefore, policies on the conversion of agricultural land need to be addressed within the overall municipal official plan and all of the planning and development considerations it must address. The "umbrella" policy statement of provincial goals and objectives for planning proposed by AMO would serve as the framework for municipalities to establish the appropriate measures and strategies for addressing agricultural land conversion.

Summary of AMO's Proposal for the Basic Components of Provincial Interest in Agricultural Land Protection

Definition of Prime Agricultural Land	Modified land evaluation approach to include the following factors: • soil capability based on revised CLI including provisions for poor pocket soils • climate (including heat units) • location and site characteristics • land tenure patterns • existing development controls • recognition of specialty crops and specialty areas
Land Uses in Agricultural Areas	Support the goals for specifying permitted land uses. Recommend that the definition of prime agricultural land not preclude looking at protection measures for individual classes of prime agricultural land.
Severance Policies	On prime agricultural land, agriculturally related severances should be permitted and non-agriculturally related severances should be prohibited. Non-agriculturally related infilling and poor pocket residential severances should be permitted. Municipalities should be responsible for incorporating severance policies and criteria for approving these severances within their policy plans (including factors or planning criteria for establishing each type of severance such as locating them away from major farm activities, arterial roads, or highways, next to a woodlot, on property borders, or on a poor pocket).
Conversion of Agricultural Land to Other Uses	Policies for the protection of agricultural land must be looked at in the context of the overall growth and development strategy for a municipality. Therefore, policies on the conversion of agricultural land need to be addressed within the overall municipal official plan and all of the planning and development considerations it must address.

3 SUPPORTIVE MEASURES FOR AGRICULTURAL LAND PROTECTION

Introduction

Several options of supportive measures that could be used to protect agricultural land are provided. A program for agricultural land protection could include one or several of these measures.

AMO's General Response

There are major cost implications associated with most of the proposed supportive measures. In addition, further study of some of them is necessary (e.g. conservation easements).

AMO supports in principle a number of programs which could be available to select from for protecting agricultural lands. That is, an agricultural land protection program should look at providing enabling legislation to pursue land trusts, conservation easements, etc.

3.1 Land Trusts

A land trust is a non-profit charitable organization that works to protect significant land and natural features. These organizations are usually private or quasi-governmental. They focus on protecting natural heritage areas, agricultural lands, open space, and cultural and heritage features. For the purposes of this discussion paper, a land trust's main functions include buying and managing land, and running programs to protect land features.

Application to Ontario

The Province could establish a trust organization and program similar to the Ontario Heritage Foundation to protect agricultural lands. The Province also could extend the mandate of the Ontario Heritage Foundation to include agricultural lands.

As another option, the Government could encourage private land trusts at both the provincial and regional level to protect agricultural land. Trusts aimed only at protecting agricultural land would be more effective than those concerned with several resources. Private trusts could identify and protect lands of local and regional priority more easily.

In order to make private trusts viable, they must be able to offer some benefit to their donors. If a trust is registered as a charity, it could issue tax receipts to donors. Trusts could also lease their lands to farmers to raise additional funds.

AMO's Response

AMO does not support a provincial land trust organization as this would be a cost prohibitive proposition. Furthermore, the Association is also not in favour of tenanted land and believes an agricultural land protection program must encourage farmers as landowners.

3.2 Conservation Easements

A conservation easement is a contract between a landowner and another party. The contract limits the development of property to certain specified uses which are less than those permitted under existing zoning by-laws. The person or organization holding the easement compensates the owner for the limitation. This restriction is usually registered on title for the property. The concept of conservation easements is similar to easements related to pipelines and utility corridors.

Application to Ontario

A conservation easement program for agricultural land similar to the program for heritage properties could be established. Such a program could enable the Province, municipalities and/or private conservation organizations to enter into an easement agreement with farmers. The program would have to set conditions and standards for easement agreements.

The system in Maryland allows counties and the Agricultural Land Preservation Foundation to identify priority areas for land protection through easements. An easement program in Ontario might have geographic options (e.g. a specific area, or as an urban separator), commodity options (e.g. specialty crops) or broader options (e.g. resource lands). Such targeting might increase the effectiveness of the program.

AMO's Response

The Association believes more information is needed before commenting further and recommends that consideration of this measure should wait until the subcommittee on conservation easements has reported.

3.3 Transfer of Development Credits

The transfer of development credits involves applying development opportunity (i.e. density) from one property to another. Under such a program, farmers would be issued certain tradeable development credits. The number of credits a farmer receives would depend on the area of land in agricultural production. The farmer could sell these credits to a developer. The developer could then apply them to another property in an identified receiving area. This would increase the density of development in the identified area.

Application to Ontario

The planning and local government systems and legal framework in Ontario differ from the systems in most American states. In Ontario, owners of agricultural land would have to be assigned credits which could be sold by them. These development credits would not increase the development potential of agricultural land. Rather, the credits could be bought by developers and applied to other developable sites in identified receiving areas.

A transfer of development credits program for agricultural lands would likely be limited to within local, county or regional municipalities. Municipalities would have to identify receiving areas to which development credits could be transferred.

AMO's Response

This measure would only be a benefit to the current landowner and as a result would not help protect agricultural land in the long-term. As a further criticism this measure does not indicate on what basis the receiving area would benefit.

3.4 Cross-Compliance in Program Criteria

Cross-compliance means the addition of qualifying criteria or performance requirements related to agricultural land protection, to the qualifications for support under another provincial program. For instance, agricultural zoning may be a condition to qualify for a support program. Cross-compliance may take many forms. Requirements to protect agricultural lands could be included with any program.

Application to Ontario

The Ontario Government runs several programs to support the agricultural sector. Conditions could be added to program qualifications to encourage the protection of agricultural lands. The government may ask farmers to commit to preserving their land for agriculture to get certain tax or program benefits.

As an Ontario example, changes could be made to the current property assessment and taxation process. The Farm Tax Rebate Program currently provides farmers with a 75% rebate on property taxes for qualified farmland. Properties must be assessed as farms and they must have been in agricultural production for the taxation year, among other conditions. This program has no requirement about the zoning of the land. The Province could require farmland to be zoned as agricultural in order to qualify for the rebate.

AMO's Response

In general, a uniform, consistent, supportive approach should be adopted to ensure that land use policies and economic programs are mutually supportive. AMO supports some form of cross-compliance provided that the support/subsidy/grant funds continue to flow to the agricultural industry. However, AMO does not support the requirement for complimentary zoning as a qualification for a support program.

Finally, the Association recommends that issues related to property assessment and taxation should be addressed by the Fair Tax Commission.

3.5 Further Options

Other options for supportive measures exist. These include taxation programs, support programs, and a commission charged with protecting agricultural lands.

These measures differ somewhat from the first four measures discussed above. Each of these measures could take several different forms. Other jurisdictions have used each of these measures in many different ways.

Taxation

Taxation offers several ways to support agricultural land protection initiatives. Some provinces and states assess farms for property tax purposes on the basis of use

value, rather than market value. This approach may be especially effective on lands closer to urban centres, where development measures force up market values of land. With lower tax rates, farmers may not feel the pressure to sell their land as much.

Another taxation tool is the use of tax credits. Tax credits may be given to farmers, based on income levels and property tax levels. In this way, local municipalities do not bear the cost of farmland protection.

Some jurisdictions have introduced land speculation taxes. These taxes apply to the gains made on the sale of land. The level of the tax usually decreases the longer a property remains with one owner. A variation of such a tax is a conversion tax when agricultural land is sold for development.

The Provincial Fair Tax Commission, as part of its mandate, will examine several tax issues that affect farmers, the agricultural sector and other landowners. The Commission is examining property taxes and land speculation taxes among other issues.

AMO's Response

AMO does not support any intrusion into the local tax base (e.g. lower tax rates, reduced assessments). The Association has no objection to capital gains/land speculation taxes applied to funds generated from lands converted to non-agriculturally related uses.

Again, how agricultural lands are treated for tax purposes should be part of the discussions by the Fair Tax Commission as this is separate from the land preservation issue.

Support Programs

Many existing provincial support programs have an economic aim. That is, they are intended to increase the returns from farming operations. The Ministry of Agriculture and Food could introduce programs which more directly support the goal of protecting prime agricultural land.

When farmers agree to maintain their land as farmland, they give up potential profits that could arise from selling the land. A program could be developed to pay farmers who agree to keep their land in agricultural production.

Other non-financial programs could support the aim of protecting farm land. Programs could also be developed that strengthen communities and give them tools to protect resources like agriculture. A community development program might support agricultural land protection while it strengthens the local economy.

AMO's Response

AMO recommends deletion of the word "production" in the sentence that "a program could be developed to pay farmers who agree to keep their land in agriculture." Any program developed should be to pay farmers for keeping land in agriculture.

This type of support program would allow for a system such as that in Great Britain. In periods of surplus, farmers are paid for non-production (the land may lie fallow for a specific short period); the land remains in "agriculture" but out of "production."

The Province should consider an additional provincial support program wherein monies are provided to go towards increased efforts to expand and create new markets for agricultural products.

Finally, all special taxation revenues (e.g. capital gains on agricultural lands) should be directed back into the industry (i.e. earmarked).

Commission

A commission could be established with its sole purpose being agricultural land protection. Depending on its specific powers, such an agency may simply review development proposals as part of the existing planning approvals process. It might also have a stronger role as the final approval authority for agricultural lands placed in reserves. Alternatively, it could act as an appeal body on matters of agricultural land use.

Both British Columbia and Quebec have established commissions to administer their systems of agricultural reserves. The commissions are responsible for agricultural reserves. They decide which lands should be included within the reserves and what types of uses should be permitted. Their roles and responsibilities are similar to those of the Niagara Escarpment Commission in Ontario.

AMO's Response

AMO does not support this option. First it would only add an additional layer of bureaucracy. And second, this is inconsistent with a planning system wherein municipalities are given the responsibility to implement provincial goals and establish policies to ensure development proposals conform to these.

4 IMPLEMENTATION

Introduction

This section looks at how the goals and policies for an agricultural land protection program could be expressed and the future roles and responsibilities of the different levels of government in its implementation.

4.1 Tools to Express Provincial Interest

Policy statements and legislation can have the same purpose. They both can express provincial goals and policy. However, the two mechanisms differ in their form, their administration, and their relationship to the land use planning system and other issues.

A third tool, education, could be used by the government in combination with either a policy statement or legislation. Education would involve informing people about the chosen policies. It could also involve enlightening people to the need for and benefits of protecting agricultural lands. Education supports the implementation of the policies and helps in achieving the goals for agricultural land protection.

Policy Statements

The land use planning system established by the *Planning Act* addresses various issues and concerns related to land use, resources development and growth management. Section 3 of the Planning Act allows the Minister of Municipal Affairs, alone or with another Minister, to issue a policy statement. Policy statements deal with matters of provincial interest in land use planning. The policies outline the Province's concerns about an issue or resource.

A Policy statement on agricultural land use might only cover the issue of agricultural land protection. This has been Ontario's approach for many years through the Food Land Guidelines.

There could be a policy statement with a broader focus encompassing an integrated vision for planning. Such a vision would co-ordinate various provincial interests such as resource and environmental protection, and growth management. Agricultural land protection would be one part of such a vision. In this way, the government could deal with the interrelationships among provincial interests.

Such a policy statement would encompass the issue of rural community development. Agriculture is often an important part of the economic and social systems of rural communities. Developing policies on agricultural land use in the context of rural community development policies recognizes and reinforces the linkages between agriculture and the rural economy and community. A rural focused policy statement includes policies for various resource sectors. It addresses the connections and conflicts in the use of resources.

These broader approaches to a policy statement consider agricultural land use in relation to other uses, resources and issues. The examples above outline several ways of having a more integrated expression of provincial interest in agricultural land and other resources. In this way, the government could deal with the interrelationships among provincial interests.

Legislation

Legislation can also be used to express provincial interests. Legislation could be drafted in any of the ways outlined under the discussion of policy statements. However, new legislation also allows for the definition of new processes for decision-making and approvals.

Basically, legislation is stronger than policy statements in terms of requirements and enforcement. Policy statements under the Planning Act are generally more flexible in their interpretation and implementation. A more specific comparison of the two policy tools would depend on the specific wording of the legislation or policy statement.

AMO's Response

AMO does not support the legislative approach. Goals change and must be responsive; it would be difficult to change them if they were entrenched in legislation. The Association supports the policy statement approach which provides for more flexibility in interpretation and implementation. AMO's earlier comment about the

importance of looking at this issue in the context of the Sewell Commission is most relevant with respect to this issue and the following section on roles and responsibilities.

In its first submission to the Sewell Commission, AMO has supported that provincial planning goals should not be entrenched in legislation but rather should be collectively stated in an "umbrella policy statement." This policy statement would include broad provincial planning goals and policies for achieving these goals. AMO recommended that existing provincial policy statements be reviewed including their status in relation to the Association's proposed "umbrella" provincial policy statement (e.g. a change in their status from policy statement to guideline).

AMO's proposal addresses the goal for an agricultural land protection program highlighted at the beginning of this response - that goals for the protection of prime agricultural land should not be separated from those related to other planning and development goals.

As stated at the beginning of this response, AMO recommends that goals and objectives for the land use planning system should be proclaimed in an "umbrella" policy statement) and municipalities should establish the policies for achieving these within their policy plans. Examples of policies for achieving provincial goals and objectives could be included in guidelines accompanying the goals and objectives statements. Under this approach, the goals and objectives for agricultural land protection would be contained in this policy statement and the policies being developed in this review would then be issued as guidelines.

5 ROLES AND RESPONSIBILITIES

Introduction

Options also exist for defining the provincial and municipal roles and responsibilities in an agricultural land protection program. There are several components in which the various levels of government could be involved: goal setting; policy development; policy implementation; setting standards; research and education; and monitoring implementation of the policies. For each of these components, the responsibility of the Province or municipality may vary from no

involvement to total responsibility, to some sharing or division of responsibility. The degree of involvement of each level of government may vary in several ways.

Variations may occur as a result of the specific characteristics of the agricultural land base in the municipality or as a result of increasingly responsible land use decision-making by a municipality.

The following are examples of how responsibilities may be varied according to the agricultural base. Municipalities with predominantly marginal agricultural areas may have responsibility for day-to-day implementation with the Province acting only in a monitoring capacity. Municipalities with predominantly prime agricultural areas, however, may have the responsibility to implement specific policies to protect the land resources and agricultural options. Alternately, where a unique resource area exists, like specialty crop lands, the Province may choose to be more involved in implementing its policies.

Variation according to increasingly responsible decision-making may include provisions for delegating more approval responsibility to the municipality in light of sophisticated review processes and appropriate implementation of provincial interests. In other municipalities, the Province may take a more active role in planning decisions related to agriculture.

The Province might also be involved at only certain stages of the planning process. For instance, the Province might only be involved in official plan preparation and review. Implementation of the official plan policies through zoning by-laws, severance, and so on, could be left to the municipality.

Depending on the focus of the policy statement or legislation, municipalities may have more responsibility for policy development and implementation. Under a rural community development focus for policies, the development of policies and solutions to issues at the local level would be important.

The division of roles and responsibilities can be expressed in an approach for implementation. Three options for an implementation approach for an agricultural land protection program are presented below. Each approach affects, differently, the "tone" of the agricultural land protection policy as well as

describes the relationship and roles of the different levels of government. Three models are presented and described below.

5.1 Centralized Approach

Under a centralized approach, the Province provides detailed direction of what lands are to be protected and how this is accomplished. The role and responsibilities of the Province are prominent. Goal setting, policy development and policy implementation are all the primary responsibilities of the Province. These responsibilities are frequently ensured through provincial approval of most development proposals.

A centralized approach is most often reflected in province-wide application of policies to all participants in land use planning. Similar standards and expectations are applied to all land owners and developments.

The responsibility of municipalities, as partners under a centralized approach, is often limited to approval of minor activities or to providing information supporting positions or applications.

5.2 Decentralized Approach

Under this approach, general goals are established by the Province and policy development and implementation are carried out by municipalities. Basically, the goals are general, although for some issues details may be provided in the goal. Provincial activities under this approach may include a passive provincial role in making the goals generally known or an active provincial role ensuring that the goals are implemented. In both of these activities, however, the provincial focus is on goals rather than specific implementation policies and requirements.

Information and support is provided by the Province to help municipal implementation. Monitoring of implementation activity, however, would generally be the responsibility of the Province. In cases where established criteria or previously agreed-upon goals were not being met, the Province would take some remedial action, such as withdrawing development approvals authority or withholding some funds.

A prominent role for upper tier municipalities (ie. county, district or regional municipalities) defines the municipal responsibility under the decentralized approach. Working with the Province, the upper tier municipality adapts provincial interests (as expressed in provincial goals) to the municipality.

This approach provides for the identification of agricultural lands, protection of the lands and support of the agricultural community by the municipal government. All day-to-day implementation of the provincial interest in agricultural land is the responsibility of the municipal government.

5.3 Locally Specific Approach

Under the locally specific approach, differing roles can be set out for the Province and municipalities, depending on specific issues. As under the other approaches, provincial interest in agricultural land is declared by the Province. Provincial goals for agricultural land protection, as well as basic policy requirements for meeting those goals, are established at the outset.

Responsibility for implementing the goals and policies can be varied according to the specific situation. Variation may occur as a result of the specific characteristics of the agricultural land base in the municipality or as a result of increasingly responsible land use decision-making by a municipality.

As an example of variation according to agricultural base, municipalities with predominantly marginal agricultural areas may have responsibility for day-to-day implementation with the Province acting only in a monitoring capacity. Municipalities with predominantly prime agricultural areas, however, may have the responsibility to implement specific policies to protect the land resources and agricultural operations.

Variation according to increasingly responsible decision-making may include provisions for delegating more approval responsibility to the municipality in light of sophisticated review processes and appropriate implementation of provincial interests.

5.4 AMO's Response: Roles and Responsibilities

The discussion of provincial and municipal roles for planning and development are currently being debated with the Sewell Commission. Again, it is within this forum that AMO believes this should be resolved.

However, the decentralized approach is closest to AMO's current thinking on the division of provincial and municipal roles. That is, the Province should set general goals with policy development and implementation carried out by municipalities. However, further discussion of the locally-specific approach is warranted. For example, this approach suggests that responsibility for policy and implementation could vary depending on the capabilities and resources of municipalities to carry out these responsibilities.

AMO has provided its two submissions to the Sewell Commission to the agricultural land review committee for its consideration.

6 CONCLUSIONS

AMO reiterates its first recommendation that the agricultural land protection program should not be finalized until the recommendations from the Sewell Commission are known and the Government has announced how it proposes to respond to those recommendations. As AMO's comments and recommendations have indicated, the program cannot be developed independent of this broader review of the planning system.

7 ENDNOTES

1. The Canada Land Inventory soil capability classification for agriculture is an interpretive classification. This classification groups mineral soils, which have similar limitations for agriculture, into one of 7 classes. Classes 1 to 3 are considered to be suitable for sustained production of common field crops. Class 4 is marginal for sustained production of common field crops. Class 5 is capable for use only for permanent pasture and hay, whereas Class 6 can be used only for wild pasture. Class 7 has no capability for pasture and hay nor common field crops. The Canada Inventory system does not account for current use and existing management practices. For specialty crop lands (e.g. for fruit and vegetables), a system of specialized suitability ratings has been developed.

2. Severance refers to the separation of a parcel of land from an existing parcel, in order to sell or mortgage it, or in order to lease it for more than 21 years.

APPENDIX 'A'

AMO's Proposals for Intermunicipal Planning Structures (as proposed in AMO's First Submission to the Commission on Planning and Development Reform)

- Intermunicipal planning structures are proposed in recognition that currently some municipalities do not have the resources or expertise to assume greater decision-making authority in planning. In these cases it is often necessary that the Provincial Government, with its resources and staff, be involved to a greater extent in supervising and planning for these areas. The purpose of intermunicipal planning authorities would be to pool municipal resources and expertise to ensure that municipalities have the capability to ultimately assume more decision-making authority for functions currently under provincial control.

- Furthermore, AMO argued that the Sewell Commission should examine intermunicipal planning structures towards ensuring that municipal planning structures are created to deal with issues which transcend existing municipal political boundaries (e.g. ecosystem approach).

- AMO's proposals for intermunicipal planning structures include three possible types: existing regions/counties; and/or amalgamations of existing regions/counties; and sub-area planning commissions. They would be responsible for defining within the municipalities' policy plan how broad provincial goals would be implemented locally.

- Intermunicipal planning authorities would be established with structures that best suit local conditions and planning needs. This would allow for unique structures in different parts of the province. This also recognizes that the appropriate intermunicipal structure for different parts of the province should be determined by the relevant municipal governments subject to provincial approval.

- In addition, this recognizes the current diversity that exists today, as well as does not accept the status quo as limiting a vision for the future. AMO argued that just as we can and should look at how to improve the provincial government's ability to meet its roles and responsibilities we should also look at how to improve the capabilities of the municipal government level to take on more responsibility.

APPENDIX 'B' - ACKNOWLEDGMENTS

The Association of Municipalities of Ontario would like to thank the following members of the Rural Section Executive Committee and the Planning Task Force who volunteered their time to help produce this response.

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